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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

Eamama Jean Woods, et al.,  
  
Plaintiff,  
  
v.  
  
John Morton, et al.,

Case No. 07-cv-1078 DMS (PCL)

**JOINT MOTION FOR INDICATIVE RULING  
STATING COURT'S INCLINATION TO  
ENTERTAIN JOINT MOTION TO CERTIFY  
SETTLEMENT CLASS**

1  
2 Defendant.

3 Pursuant to Federal Rule of Civil Procedure 62.1, Eamma Jean Woods, et al. (“Plaintiffs”)  
4 and John Morton, et al. (“Defendants”) jointly request that this Court issue an Indicative Ruling  
5 stating its willingness to entertain the parties’ Joint Motion to Certify a Settlement Class should  
6 the Ninth Circuit remand this case for that purpose.

7 **I. PROCEDURAL HISTORY**

8 In conjunction with the filing of Plaintiffs’ Complaint, Plaintiffs moved for class  
9 certification on June 13, 2007. On December 11, 2007, the District Court denied Plaintiffs’  
10 motion for class certification. Plaintiffs sought appellate review of this decision pursuant to  
11 Federal Rule of Civil Procedure 23(e), and on March 13, 2008, the U.S. Court of Appeals for the  
12 Ninth Circuit granted Plaintiffs’ petition for permission to appeal the District Court’s denial of  
13 class certification.

14 On May 6, 2009, after the parties submitted their appellate briefing, the Ninth Circuit  
15 issued an Order, attached as **Exhibit A**, referring the case to the Circuit Mediator “to explore the  
16 possibility of mediation,” and stating as follows:

17 The Court is inclined to hold the issues in this case amenable to  
18 adjudication through a class action. Because, however, of the need to  
19 identify what steps should be taken to assure adequate medical care to  
20 detainees, a more constructive approach might be for the parties to attempt  
to resolve the case through mediation. Submission of this case is therefore  
deferred to allow the parties to consider settlement.

21 Thereafter, the parties engaged in mediation, which included participation in numerous in-  
22 person and telephone mediation sessions conducted by Chief Circuit Mediator, Claudia Bernard.  
23 Ultimately, the parties entered into a settlement agreement on December 16, 2010, attached  
24 hereto as **Exhibit B**.

25 **II. RELIEF REQUESTED**

26 The parties seek to file in the district court a Joint Motion to Certify a Settlement Class.  
27 The order granting permission to appeal the denial of class certification, however, divested the  
28 district court of jurisdiction to rule on such a motion. *City of Los Angeles, Harbor Div. v. Santa*

1 *Monica Baykeeper*, 254 F.3d 882, 886 (9th Cir. 2001) (“interlocutory appeal divests the district  
2 court of jurisdiction over the particular issues involved in that appeal”). Therefore, the Ninth  
3 Circuit must first remand this case to the district court before it can consider the parties’ Joint  
4 Motion to Certify a Settlement Class.

5 According to the procedure first established by the Ninth Circuit in the context of a  
6 Federal Rule of Procedure 60(b) motion while an appeal is pending, prior to requesting a remand  
7 from the Ninth Circuit, the parties must first ask the district court to indicate whether it would  
8 entertain the Rule 60(b) motion. *Crateo, Inc. v. Intermark, Inc.*, 36 F.2d 862, 869 (9th Cir. 1976)  
9 (finding that in order to seek Rule 60(b) relief while an appeal is pending, “the proper procedure  
10 is to ask the district court whether it wishes to entertain the motion, or to grant it, and then move  
11 [in the Ninth Circuit], if appropriate, for remand of the case.”) This procedure now applies to the  
12 relief sought here because the recently-adopted Federal Rule of Civil Procedure 62.1 “adopts for  
13 **any** motion that the district court cannot grant because of a pending appeal the practice that most  
14 courts follow when a party makes a Rule 60(b) motion to vacate a judgment that is pending on  
15 appeal.” Fed. R. Civ. P. 62.1. Advisory Committee Notes (emphasis added).

16 Both the parties and the Ninth Circuit agree that settlement is the most constructive  
17 approach to resolving this action. Therefore, the parties respectfully request that the Court issue  
18 an Indicative Ruling stating it is willing to entertain their Joint Motion to Certify a Settlement  
19 Class should the Ninth Circuit remand this case for that purpose.

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1 Dated: December 22, 2010

Respectfully submitted,

2  
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ELIZABETH ALEXANDER

4 /s/Elizabeth Alexander

5 Elizabeth Alexander

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